IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 797 OF 2003

Jawaharlal Nehru Port Trust .. Petitioners

Versus

Nhava Sheva Port & General Workers' Union & Anr. .. Respondents

Ms.Usha Singh i/b Vyas & Bhalwal for the petitioners.

Mr.J. Sawant for respondent No.1.

CORAM : F.I. REBELLO, J.

DATE : 12TH OCTOBER 2004

P.C. :

1. Heard the learned counsel for the parties.

2. At the stage of admission while granting rule, this Court did not think it fit to stay the order of reinstatement. Pursuant to that order, the concerned workman is in service. That order continues till date.

3. The services of the workman, who was a permanent employee, was terminated without holding an inquiry. One of the contentions raised was that there was a delay in making the reference. It was also set out that the workman was in the habit of remaining absent without leave. The order of termination was passed on the ground of unauthorised absence. The workman was also informed as to why disciplinary action should not be taken against him.

4. The learned Presiding Officer, after considering the contentions and considering the order of termination, found that the services came to be terminated on the ground of misconduct without holding an inquiry. The learned Presiding Officer also held that the termination amounts to retrenchment and in view of that passed the impugned Award, however without granting back wages.

5. In my opinion, considering the findings recorded by the learned Presiding Officer and the denial of back wages, there is no legal infirmity or any error apparent on the face of record which would warrant interference by this court in exercise of extraordinary jurisdiction. If it is the contention of the petitioners that the workman remained habitually absent, it is always open to the petitioners to take appropriate steps against the workman in accordance with law.

6. Considering the above, in my opinion, there is no reason to interfere with the impugned Award and the order. Hence, the petition is dismissed. Rule is discharged. No order as to costs.

(F.I. REBELLO J.)